IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Crl.Misc.No.1035-M of 2007

DATE OF DECISION: MARCH 7, 2007

Union of India

...PETITIONER

VERSUS

Central Bureau of Investigation and others

...RESPONDENTS

CORAM: HON'BLE MR.JUSTICE SATISH KUMAR MITTAL

Present: Ms.Daya Chaudhary, Asstt.Solicitor General
and Mr.D.D.Sharma, Standing Counsel
for Union of India-petitioner.

Mr.R.K.Handa, Advocate,
for respondent No.1.

Mr.H.S.Bhullar, Advocate,
for respondents No.2 and 4 to 8.

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The Union of India through Secretary, Ministry of Home Affairs, has filed this petition under Section 482 Cr.P.C. for setting aside the part of the order dated 14.12.2006 passed by Additional Sessions Judge, Chandigarh in case CBI Versus Gurmeet Singh and others, whereby the Home Minister of India has been directed to file an affidavit in support of the claim made by the Union of India seeking privilege with regard to certain documents which have been summoned by the accused in their defence.

The grouse of the petitioner is that if the affidavit already filed by the Home Secretary, Government of India in support of the plea of privilege taken by the government, is not found to be satisfactory by the court, Home Secretary, Government of India, being Executive Head of the Department, is ready to file an additional affidavit as required by the trial court, but the petitioner has objection regarding directing the Union Home Minister to file the requisite affidavit.

At the time of issuing notice of motion on January 16, 2007 and after hearing the counsel for the petitioner and the counsel for the CBI, the

direction issued by the Additional Sessions Judge, Chandigarh, vide order dated 14.12.2006 for filing the affidavit of the Home Minister of the Union of India, was stayed.

Today, during the course of arguments, counsel for respondents No.2 and 4 to 8 submitted that the matter regarding granting privilege to the Union of India, is yet to be decided by the trial court, therefore, the respondents have no objection if the additional affidavit in terms of order dated 14.12.2006 passed by the Additional Sessions Judge, Chandigarh is filed by the Home Secretary, Government of India. He submits that respondents No.2 and 4 to 8 are in custody and facing the trial since long. Therefore, a direction be issued that the said affidavit be filed by the Home Secretary, Government of India within a period of 15 days and thereafter, the trial court be also directed to decide the issue regarding the privilege claimed by the petitioner about the documents in question, within a period of next 15 days.

In view of the aforesaid, this petition is disposed of with the modification in the order dated 14.12.2006 passed by the Additional Sessions Judge, Chandigarh to the extent that the requisite affidavit will now be filed by the Home Secretary, Government of India within 15 days from today. After filing of the said affidavit within 15 days, the trial court is directed to decide the matter regarding privilege claimed by the petitioner about the documents in question, within a period of next 15 days.

Dasti on payment.

March 7, 2007 (SATISH KUMAR MITTAL)
vkg JUDGE